

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

**TANYA ASAPANSA-JOHNSON WALKER,
and**

CECILIA GENTILI,

Plaintiffs,

v.

**ALEX M. AZAR II, in his official capacity as
the Secretary of the United States
Department of Health and Human Services,
and**

**UNITED STATES DEPARTMENT OF
HEALTH AND HUMAN SERVICES,**

Defendants.

CIVIL ACTION NO. 20-cv-02834-FB-SMG

**DECLARATION OF JASON E. STARR IN
SUPPORT OF ORDER TO SHOW CAUSE
REGARDING ISSUANCE OF A
PRELIMINARY INJUNCTION AND
SETTING EXPEDITED BRIEFING AND
HEARING SCHEDULE**

Pursuant to 26 U.S.C. § 1746, I, JASON E. STARR, hereby declare, and under penalty of perjury under the laws of the United States of America that the following is true and correct:

1. I am a member of the bar of this Court and the State of New York. I am the Director of Litigation at the Human Rights Campaign and one of the attorneys for the Plaintiffs in this action.

2. Plaintiffs seek an order to show cause for a preliminary injunction to prevent the Defendants from enforcing the rule entitled “Nondiscrimination in Health and Health Education Programs or Activities, Delegation of Authority,” 85 Fed. Reg. 37160 (June 19, 2020) (the “2020 Rule”).

3. The 2020 Rule is currently scheduled to go into effect on August 18, 2020.

4. Plaintiffs are proceeding by order to show cause, rather than a motion brought on notice, due to the short time period remaining before the 2020 Rule's effective date.

5. Plaintiffs served Defendants with the Complaint for Declaratory and Injunctive Relief (the "Complaint") pursuant to Federal Rule of Civil Procedure 4(i). Specifically, Plaintiffs served Defendants via registered mail on Monday, June 29, 2020. Service was perfected for Defendants Alex M. Azar II ("Azar") and the United States Department of Health and Human Services ("HHS") on Monday, July 6, 2020. Service was perfected for United States Attorney General William P. Barr and the United States Attorney's Office for the Eastern District of New York on Tuesday, July 7, 2020.

6. On Wednesday, July 8, 2020, Plaintiffs sought leave from this Court to request a preliminary injunction on an expedited briefing schedule (the "July 8 Letter Motion"). Copies of the July 8 Letter Motion requesting this relief were served on Defendants on July 8, 2020. United States Attorney General William P. Barr, the United States Attorney's Office for the Eastern District of New York, and HHS received the July 8 Letter Motion on Thursday, July 9, 2020. Azar received the July 8 Letter Motion on Friday, July 10, 2020.

7. On Thursday, July 9, 2020, Plaintiffs again contacted Defendants via letter advising Defendants of this Court's Order granting Plaintiffs permission to seek a preliminary injunction on an expedited schedule (the "July 9 Letter"). The July 9 Letter specifically asked Defendants' counsel to contact Plaintiffs' counsel in order to set the expedited briefing schedule. The July 9 Letter was also served on Defendants via overnight mail on July 9, 2020. HHS and the United States Attorney's Office for the Eastern District of New York received the July 9 Letter on Friday, July 10, 2020. Azar and United States Attorney General William P. Barr received the July 9 Letter on Monday, July 13, 2020.

8. To date, no one has contacted Plaintiffs' counsel in response to the Complaint, the July 8 Letter Motion, or the July 9 Letter.

9. There are two other pending lawsuits challenging HHS's 2020 Rule: *Whitman-Walker Clinic, Inc., et al. v. U.S. Department of Health and Human Services, et al.*, Case No. 1:20-cv-01630 (D.D.C. June 22, 2020) and *Boston Alliance of Gay, Lesbian, Bisexual, and Transgender Youth, et al. v. United States Department of Health and Human Services, et al.*, Case No. 1:20-cv-11297 (D. Mass. July 9, 2020).

10. Finally, at approximately 9:35 a.m. on Tuesday, July 14, 2020, counsel for Plaintiffs called an attorney at the United States Department of Justice known to be representing Defendants in the *Whitman-Walker Clinic* lawsuit. Counsel was unable to speak with that attorney and left a voicemail message. As of the time of this filing, that message has not been returned.

11. No prior application has been made by Plaintiffs for the relief sought herein.

I declare under penalty of perjury that the foregoing is true and correct.

DATED: July 14, 2020

/s/ Jason E. Starr

Jason E. Starr